

Mr. SENSENBRENNER. Mr. Speaker, I yield the gentleman from California 1 minute.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from California (Mr. BERMAN) is recognized for 6 minutes.

Mr. BERMAN. Mr. Speaker, I thank the ranking member and the gentleman from Wisconsin for their generous yielding of time to me.

Mr. Speaker, I just want to make a few comments in response to the gentleman from North Carolina, because he makes legitimate and accurate points about this legislation. But in response, I would make a few points.

Mr. Speaker, concerning H.R. 860, the circumstances which this bill applies to are so narrow and unique, and because so many civil actions which arise out of a single action are already subject to Federal jurisdiction, there really are in a practical sense very few plaintiffs who will find themselves in a Federal court who would not have already been there.

But even if they do, this bill has protection, because the bill preserves the ability of the transferee court, the Federal court to which this multi-party litigation has been assigned, it preserves the ability of that court to transfer back or dismiss an action on the ground of an inconvenient forum.

So that plaintiff has the ability to make his case that even though it is a result of that single accident, even though I am alleging \$150,000, in my particular situation, notwithstanding the efficiencies that would justify a single trial, for purposes of liability and other issues, we should go back to the State court.

The gentleman from North Carolina says, but he has to get to that court in order to make that request. That is true.

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Speaker, I appreciate the gentleman yielding. I appreciate him taking seriously the comments that I am making.

I would just point out to him two things. Yes, this bill will make the system more efficient, but from 22 years of the practice of law, I will tell the gentleman that every single case is a unique case for the parties in that case.

So when we say that this applies only to a small number of cases, the gentleman is absolutely right. I do not argue that. But for that individual plaintiff who is coming into court, we ought to make the courts as conveniently available to that one individual as we can.

The gentleman says that this person can show up in the Federal court, make a motion to move it back, but here he is sitting there with 16 other plaintiffs who say, Please do not move this case.

All I am saying is, that person ought to be allowed to go and litigate their case in a forum that is convenient to them, not have their case and the placement of it decided on the basis of some majority rule theory.

I understand efficiency of the court. I understand why the Judicial Conference would favor this. But in the interest of individual plaintiffs, I think it is important to have another exception in this bill, and it would be used so infrequently that it would not be an imposition. It could be done very easily in the context of this bill.

Mr. BERMAN. Reclaiming my time, Mr. Speaker, this is not just about efficiency. This is also about convenience of the parties.

We had a horrible accident recently with a private plane taking the Oklahoma State basketball team. That may not be applicable, because this requires 25 people. But think of a similar situation where a huge number of those passengers are from one State. The defendant is from some other State.

This allows the multi-party committee, the panel that decides these multi-district multi-party cases where they should be tried, to consider the convenience of the plaintiffs in this kind of a case, not simply the question of efficiency. So there are some real positive benefits from this legislation, as well.

Moreover, on the issue of damages, which can be particularly a matter to be determined by local communities and peers in the community where that plaintiff resides, this creates the presumption that that issue, the compensatory damages issue, will go back, in the case of the hypothetical that you cited, to the State court for determination.

Yes, the bill will cause some plaintiffs to find themselves in Federal court, while without the bill those plaintiffs would have been able to remain in State courts. I think there are several policy considerations. I have mentioned them. As the chairman said earlier, we have to draw a balance. Having the very complicated and complex issue of liability tried in one place makes sense.

As we balance these things, Mr. Speaker, I come down on the side of having the complicated, expensive, and controversial issue litigated in one court.

And I might just add in the remaining seconds I have that from what I understand from plaintiff's attorneys involved in these accident cases and other cases like this that this bill addresses, that the problem is, sometimes that guy who wants to file in the State court, the lawyer who wants to file in the State court because it is an in-State defendant, he really wants to be the free rider in this. He wants the whole thing tried and all the discovery, all that done by others. Then, after

that issue is settled, he will come in with a State action, not having put up his share of the costs and his efforts, and cash in. I am told that is one aspect of why some plaintiff's lawyers, no one in this room, I am sure, would actually prefer to file in the State court.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 860, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### INTELLECTUAL PROPERTY AND HIGH TECHNOLOGY TECHNICAL AMENDMENTS ACT OF 2001

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 320) to make technical corrections in patent, copyright, and trademark laws, as amended.

The Clerk read as follows:

S. 320

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Intellectual Property and High Technology Technical Amendments Act of 2001".*

#### SEC. 2. OFFICERS AND EMPLOYEES.

(a) RENAMING OF OFFICERS.—(1)(A) Except as provided in subparagraph (B), title 35, United States Code, other than section 210(d), is amended—

(i) by striking "Director" each place it appears and inserting "Commissioner"; and

(ii) by striking "Director's" each place it appears and inserting "Commissioner's".

(B) Section 3(b)(5) of title 35, United States Code, is amended by striking "Director" the first place it appears and inserting "Commissioner".

(C) Section 3(a) of title 35, United States Code, is amended in the subsection heading, by striking "DIRECTOR" and inserting "COMMISSIONER".

(D) Section 3(b)(1) of title 35, United States Code, is amended in the paragraph heading, by striking "DIRECTOR" and inserting "COMMISSIONER".

(2) The Act of July 5, 1946 (commonly referred to as the "Trademark Act of 1946"; 15 U.S.C. 1051 et seq.) is amended by striking "Director" each place it appears and inserting "Commissioner".

(3)(A) Title 35, United States Code, other than subsection (f) of section 3, is amended by striking "Commissioner for Patents" each place it appears and inserting "Assistant Commissioner for Patents".

(B) Title 35, United States Code, other than subsection (f) of section 3, is amended by striking "Commissioner for Trademarks" each place

it appears and inserting "Assistant Commissioner for Trademarks".

(C) Section 3(b)(2) of title 35, United States Code, is amended—

(i) in the paragraph heading, by striking "COMMISSIONERS" and inserting "ASSISTANT COMMISSIONERS";

(ii) in subparagraph (A), in the last sentence—

(I) by striking "a Commissioner" and inserting "an Assistant Commissioner"; and

(II) by striking "the Commissioner" and inserting "the Assistant Commissioner";

(iii) in subparagraph (B)—

(I) by striking "Commissioners" each place it appears and inserting "Assistant Commissioners";

(II) by striking "Commissioners" each place it appears and inserting "Assistant Commissioners"; and

(iv) in subparagraph (C), by striking "Commissioners" and inserting "Assistant Commissioners".

(D) Section 3(f) of title 35, United States Code, is amended in subparagraphs (A) and (B) of paragraph (2)—

(i) by striking "the Commissioner" each place it appears and inserting "the Assistant Commissioner"; and

(ii) by striking "a Commissioner" each place it appears and inserting "an Assistant Commissioner".

(E) Section 13 of title 35, United States Code, is amended—

(i) by striking "Commissioner of" each place it appears and inserting "Assistant Commissioner for"; and

(ii) by striking "Commissioners" and inserting "Assistant Commissioners".

(F) Chapter 17 of title 35, United States Code, is amended by striking "Commissioner of Patents" each place it appears and inserting "Assistant Commissioner for Patents".

(G) Section 297 of title 35, United States Code, is amended by striking "Commissioner of Patents" each place it appears and inserting "Commissioner".

(4) Section 5314 of title 5, United States Code, is amended by striking

"Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office."

and inserting

"Deputy Under Secretary of Commerce for Intellectual Property and Commissioner of the United States Patent and Trademark Office."

(5) Section 5315 of title 5, United States Code, is amended by striking

"Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office."

and inserting

"Deputy Under Secretary of Commerce for Intellectual Property and Deputy Commissioner of the United States Patent and Trademark Office."

(6)(A) Sections 303 and 304 of title 35, United States Code, are each amended in the section headings by striking "Director" and inserting "Commissioner".

(B) The items relating to sections 303 and 304 in the table of sections for chapter 30 of title 35, United States Code, are each amended by striking "Director" and inserting "Commissioner".

(7)(A) Sections 312 and 313 of title 35, United States Code, are each amended in the section headings by striking "Director" and inserting "Commissioner".

(B) The items relating to sections 312 and 313 in the table of sections for chapter 31 of title 35, United States Code, are each amended by striking "Director" and inserting "Commissioner".

(8) Section 17(b) of the Trademark Act of 1946 (15 U.S.C. 1067) is amended by striking "Com-

missioner for Patents, the Commissioner for Trademarks" and inserting "Assistant Commissioner for Patents, the Assistant Commissioner for Trademarks".

(b) ADDITIONAL CLERICAL AMENDMENTS.—

(1) The following provisions of law are amended by striking "Director" each place it appears and inserting "Commissioner".

(A) Section 9(p)(1)(B) of the Small Business Act (15 U.S.C. 638(p)(1)(B)).

(B) Section 19 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831r).

(C) Section 182(b)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2242(b)(2)(A)).

(D) Section 302(b)(2)(D) of the Trade Act of 1974 (19 U.S.C. 2412(b)(2)(D)).

(E) Section 702(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372(d)).

(F) Section 1295(a)(4)(B) of title 28, United States Code.

(G) Section 1744 of title 28, United States Code.

(H) Section 151 of the Atomic Energy Act of 1954 (42 U.S.C. 2181).

(I) Section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182).

(J) Section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457).

(K) Section 12(a) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5510(a)), the last place such term appears.

(L) Section 10(i) of the Trading with the Enemy Act (50 U.S.C. App. 10(i)).

(M) Sections 4203, 4506, 4606, and 4804(d)(2) of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106-113.

(2) The item relating to section 1744 in the table of sections for chapter 115 of title 28, United States Code, is amended by striking "generally" and inserting "generally".

(c) REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Patent and Trademark Office—

(1) to the Director of the United States Patent and Trademark Office or to the Commissioner of Patents and Trademarks is deemed to refer to the Under Secretary of Commerce for Intellectual Property and Commissioner of the United States Patent and Trademark Office;

(2) to the Commissioner for Patents is deemed to refer to the Assistant Commissioner for Patents; and

(3) to the Commissioner for Trademarks is deemed to refer to the Assistant Commissioner for Trademarks.

### SEC. 3. CLARIFICATION OF REEXAMINATION PROCEDURE ACT OF 1999; TECHNICAL AMENDMENTS.

(a) OPTIONAL INTER PARTES REEXAMINATION PROCEDURES.—Title 35, United States Code, is amended as follows:

(1) Section 311 is amended—

(A) in subsection (a), by striking "person" and inserting "third-party requester"; and

(B) in subsection (c), by striking "Unless the requesting person is the owner of the patent, the" and inserting "The".

(2) Section 312 is amended—

(A) in subsection (a), by striking the last sentence; and

(B) in subsection (b), by striking "if any".

(3) Section 314(b)(1) is amended—

(A) by striking "(1) This" and all that follows through "(2)" and inserting "(1)";

(B) by striking "the third-party requester shall receive a copy" and inserting "the Office shall send to the third-party requester a copy"; and

(C) by redesignating paragraph (3) as paragraph (2).

(4) Section 315(c) is amended by striking "United States Code,".

(5) Section 317 is amended—

(A) in subsection (a), by striking "patent owner nor the third-party requester, if any, nor privies of either" and inserting "third-party requester nor its privies"; and

(B) in subsection (b), by striking "United States Code,".

(b) CONFORMING AMENDMENTS.—

(1) APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES.—Subsections (a), (b), and (c) of section 134 of title 35, United States Code, are each amended by striking "administrative patent judge" each place it appears and inserting "primary examiner".

(2) PROCEEDING ON APPEAL.—Section 143 of title 35, United States Code, is amended by amending the third sentence to read as follows: "In an ex parte case or any reexamination case, the Commissioner shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Commissioner and the parties in the appeal.".

(c) CLERICAL AMENDMENTS.—

(1) Section 4604(a) of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106-113, is amended by striking "Part 3" and inserting "Part III".

(2) Section 4604(b) of that Act is amended by striking "title 25" and inserting "title 35".

(d) EFFECTIVE DATE.—The amendments made by sections 4605(c) and 4605(e) of the Intellectual Property and Communications Omnibus Reform Act, as enacted by section 1000(a)(9) of Public Law 106-113, shall apply to any reexamination filed in the United States Patent and Trademark Office on or after the date of the enactment of Public Law 106-113.

### SEC. 4. PATENT AND TRADEMARK EFFICIENCY ACT AMENDMENTS.

(a) DEPUTY COMMISSIONER.—

(1) Section 17(b) of the Act of July 5, 1946 (commonly referred to as the "Trademark Act of 1946") (15 U.S.C. 1067(b)), is amended by inserting "the Deputy Commissioner," after "Commissioner,".

(2) Section 6(a) of title 35, United States Code, is amended by inserting "the Deputy Commissioner," after "Commissioner,".

(b) PUBLIC ADVISORY COMMITTEES.—Section 5 of title 35, United States Code, is amended—

(1) in subsection (i), by inserting "privileged," after "personnel"; and

(2) by adding at the end the following new subsection:

"(j) INAPPLICABILITY OF PATENT PROHIBITION.—Section 4 shall not apply to voting members of the Advisory Committees."

(c) MISCELLANEOUS.—Section 153 of title 35, United States Code, is amended by striking "and attested by an officer of the Patent and Trademark Office designated by the Commissioner,".

### SEC. 5. DOMESTIC PUBLICATION OF FOREIGN FILED PATENT APPLICATIONS ACT OF 1999 AMENDMENTS.

Section 154(d)(4)(A) of title 35, United States Code, as in effect on November 29, 2000, is amended—

(1) by striking "on which the Patent and Trademark Office receives a copy of the" and inserting "of"; and

(2) by striking "international application" the last place it appears and inserting "publication".

### SEC. 6. DOMESTIC PUBLICATION OF PATENT APPLICATIONS PUBLISHED ABROAD.

Subtitle E of title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106-113, is amended as follows:

(1) Section 4505 is amended to read as follows:  
**“SEC. 4505. PRIOR ART EFFECT OF PUBLISHED APPLICATIONS.**

“Section 102(e) of title 35, United States Code, is amended to read as follows:

“(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or.”.

(2) Section 4507 is amended—

(A) in paragraph (1), by striking “Section 11” and inserting “Section 10”;

(B) in paragraph (2), by striking “Section 12” and inserting “Section 11”;

(C) in paragraph (3), by striking “Section 13” and inserting “Section 12”;

(D) in paragraph (4), by striking “12 and 13” and inserting “11 and 12”;

(E) in section 374 of title 35, United States Code, as amended by paragraph (10), by striking “confer the same rights and shall have the same effect under this title as an application for patent published” and inserting “be deemed a publication”;

(F) by adding at the end the following:

“(12) The item relating to section 374 in the table of contents for chapter 37 of title 35, United States Code, is amended to read as follows:

“374. Publication of international application.”.

(3) Section 4508 is amended to read as follows:  
**“SEC. 4508. EFFECTIVE DATE.**

“Except as otherwise provided in this section, sections 4502 through 4507, and the amendments made by such sections, shall be effective as of November 29, 2000, and shall apply only to applications (including international applications designating the United States) filed on or after that date. The amendments made by sections 4504 and 4505 shall additionally apply to any pending application filed before November 29, 2000, if such pending application is published pursuant to a request of the applicant under such procedures as may be established by the Commissioner. If an application is filed on or after November 29, 2000, or is published pursuant to a request from the applicant, and the application claims the benefit of one or more prior-filed applications under section 119(e), 120, or 365(c) of title 35, United States Code, then the amendment made by section 4505 shall apply to the prior-filed application in determining the filing date in the United States of the application.”.

## **SEC. 7. MISCELLANEOUS CLERICAL AMENDMENTS.**

(a) AMENDMENTS TO TITLE 35.—The following provisions of title 35, United States Code, are amended:

(1) Section 2(b) is amended in paragraphs (2)(B) and (4)(B), by striking “, United States Code”.

(2) Section 3 is amended—

(A) in subsection (a)(2)(B), by striking “United States Code,”;

(B) in subsection (b)(2)—

(i) in the first sentence of subparagraph (A), by striking “, United States Code”;

(ii) in the first sentence of subparagraph (B)—

(I) by striking “United States Code,”; and

(II) by striking “, United States Code”;

(iii) in the second sentence of subparagraph (B)—

(I) by striking “United States Code,”; and

(II) by striking “, United States Code.” and inserting a period;

(iv) in the last sentence of subparagraph (B), by striking “, United States Code”;

(v) in subparagraph (C), by striking “, United States Code”;

(C) in subsection (c)—

(i) in the subsection caption, by striking “, UNITED STATES CODE”;

(ii) by striking “United States Code.”.

(3) Section 5 is amended in subsections (e) and (g), by striking “, United States Code” each place it appears.

(4) The table of chapters for part I is amended in the item relating to chapter 3, by striking “before” and inserting “Before”.

(5) The item relating to section 21 in the table of contents for chapter 2 is amended to read as follows:

“21. Filing date and day for taking action.”.

(6) The item relating to chapter 12 in the table of chapters for part II is amended to read as follows:

**“12. Examination of Application ..... 131.”**

(7) The item relating to section 116 in the table of contents for chapter 11 is amended to read as follows:

“116. Inventors.”.

(8) Section 154(b)(4) is amended by striking “, United States Code,”.

(9) Section 156 is amended—

(A) in subsection (b)(3)(B), by striking “paragraphs” and inserting “paragraph”;

(B) in subsection (d)(2)(B)(i), by striking “below the office” and inserting “below the Office”;

(C) in subsection (g)(6)(B)(iii), by striking “submitted” and inserting “submitted”.

(10) The item relating to section 183 in the table of contents for chapter 17 is amended by striking “of” and inserting “to”.

(11) Section 185 is amended by striking the second period at the end of the section.

(12) Section 201(a) is amended—

(A) by striking “United States Code,”; and

(B) by striking “5, United States Code.” and inserting “5.”.

(13) Section 202 is amended—

(A) in subsection (b)(4), by striking “last paragraph of section 203(2)” and inserting “section 203(b)”;

(B) in subsection (c)—

(i) in paragraph (4), by striking “rights,” and inserting “rights,”;

(ii) in paragraph (5), by striking “of the United States Code”.

(14) Section 203 is amended—

(A) in paragraph (2)—

(i) by striking “(2)” and inserting “(b)”;

(ii) by striking the quotation marks and comma before “as appropriate”;

(iii) by striking “paragraphs (a) and (c)” and inserting “paragraphs (1) and (3) of subsection (a)”;

(B) in the first paragraph—

(i) by striking “(a)”, “(b)”, “(c)”, and “(d)” and inserting “(1)”, “(2)”, “(3)”, and “(4)”, respectively;

(ii) by striking “(1.” and inserting “(a)”.

(15) Section 209 is amended in subsections (d)(2) and (f), by striking “of the United States Code”.

(16) Section 210 is amended—

(A) in subsection (a)—

(i) in paragraph (11), by striking “5901” and inserting “5908”;

(ii) in paragraph (20) by striking “178(j)” and inserting “178j”;

(B) in subsection (c)—

(i) by striking “paragraph 202(c)(4)” and inserting “section 202(c)(4)”;

(ii) by striking “title..” and inserting “title.”.

(17) The item relating to chapter 29 in the table of chapters for part III is amended by inserting a comma after “Patent”.

(18) The item relating to section 256 in the table of contents for chapter 25 is amended to read as follows:

“256. Correction of named inventor.”.

(19) Section 294 is amended—

(A) in subsection (b), by striking “United States Code,”; and

(B) in subsection (c), in the second sentence by striking “court to” and inserting “court of”.

(20) Section 371(b) is amended by adding at the end a period.

(21) Section 371(d) is amended by adding at the end a period.

(22) Paragraphs (1), (2), and (3) of section 376(a) are each amended by striking the semicolon and inserting a period.

## **(b) OTHER AMENDMENTS.—**

(1) Section 4732(a) of the Intellectual Property and Communications Omnibus Reform Act of 1999 is amended—

(A) in paragraph (9)(A)(ii), by inserting “in subsection (b),” after “(ii)”;

(B) in paragraph (10)(A), by inserting after “title 35, United States Code,” the following: “other than sections 1 through 6 (as amended by chapter 1 of this subtitle).”.

(2) Section 4802(1) of that Act is amended by inserting “to” before “citizens”.

(3) Section 4804 of that Act is amended—

(A) in subsection (b), by striking “11(a)” and inserting “10(a)”;

(B) in subsection (c), by striking “13” and inserting “12”.

(4) Section 4402(b)(1) of that Act is amended by striking “in the fourth paragraph”.

## **SEC. 8. TECHNICAL CORRECTIONS IN TRADE-MARK LAW.**

(a) AWARD OF DAMAGES.—Section 35(a) of the Act of July 5, 1946 (commonly referred to as the “Trademark Act of 1946”) (15 U.S.C. 1117(a)), is amended by striking “a violation under section 43(a), (c), or (d),” and inserting “a violation under section 43(a) or (d).”.

(b) ADDITIONAL TECHNICAL AMENDMENTS.—The Trademark Act of 1946 is further amended as follows:

(1) Section 1(d)(1) (15 U.S.C. 1051(d)(1)) is amended in the first sentence by striking “specifying the date of the applicant’s first use” and all that follows through the end of the sentence and inserting “specifying the date of the applicant’s first use of the mark in commerce and those goods or services specified in the notice of allowance on or in connection with which the mark is used in commerce.”.

(2) Section 1(e) (15 U.S.C. 1051(e)) is amended to read as follows:

“(e) If the applicant is not domiciled in the United States the applicant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Commissioner.”.

(3) Section 8(f) (15 U.S.C. 1058(f)) is amended to read as follows:

“(f) If the registrant is not domiciled in the United States, the registrant may designate, by

a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Commissioner."

(4) Section 9(c) (15 U.S.C. 1059(c)) is amended to read as follows:

"(c) If the registrant is not domiciled in the United States the registrant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Commissioner."

(5) Subsections (a) and (b) of section 10 (15 U.S.C. 1060(a) and (b)) are amended to read as follows:

"(a)(1) A registered mark or a mark for which an application to register has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Notwithstanding the preceding sentence, no application to register a mark under section 1(b) shall be assignable prior to the filing of an amendment under section 1(c) to bring the application into conformity with section 1(a) or the filing of the verified statement of use under section 1(d), except for an assignment to a successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing.

"(2) In any assignment authorized by this section, it shall not be necessary to include the good will of the business connected with the use of and symbolized by any other mark used in the business or by the name or style under which the business is conducted.

"(3) Assignments shall be by instruments in writing duly executed. Acknowledgment shall be prima facie evidence of the execution of an assignment, and when the prescribed information reporting the assignment is recorded in the United States Patent and Trademark Office, the record shall be prima facie evidence of execution.

"(4) An assignment shall be void against any subsequent purchaser for valuable consideration without notice, unless the prescribed information reporting the assignment is recorded in the United States Patent and Trademark Office within 3 months after the date of the assignment or prior to the subsequent purchase.

"(5) The United States Patent and Trademark Office shall maintain a record of information on assignments, in such form as may be prescribed by the Commissioner.

"(b) An assignee not domiciled in the United States may designate by a document filed in the

United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the assignee does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served upon the Commissioner."

(6) Section 23(c) (15 U.S.C. 1091(c)) is amended by striking the second comma after "numeral".

(7) Section 33(b)(8) (15 U.S.C. 1115(b)(8)) is amended by aligning the text with paragraph (7).

(8) Section 34(d)(1)(A) (15 U.S.C. 1116(d)(1)(A)) is amended by striking "section 110" and all that follows through "(36 U.S.C. 380)" and inserting "section 220506 of title 36, United States Code,".

(9) Section 34(d)(1)(B)(ii) (15 U.S.C. 1116(d)(1)(B)(ii)) is amended by striking "section 110" and all that follows through "(36 U.S.C. 380)" and inserting "section 220506 of title 36, United States Code".

(10) Section 34(d)(11) is amended by striking "6621 of the Internal Revenue Code of 1954" and inserting "6621(a)(2) of the Internal Revenue Code of 1986".

(11) Section 35(b) (15 U.S.C. 1117(b)) is amended—

(A) by striking "section 110" and all that follows through "(36 U.S.C. 380)" and inserting "section 220506 of title 36, United States Code,"; and

(B) by striking "6621 of the Internal Revenue Code of 1954" and inserting "6621(a)(2) of the Internal Revenue Code of 1986".

(12) Section 44(e) (15 U.S.C. 1126(e)) is amended by striking "a certification" and inserting "a true copy, a photocopy, a certification,".

#### SEC. 9. PATENT AND TRADEMARK FEE CLERICAL AMENDMENT.

The Patent and Trademark Fee Fairness Act of 1999 (113 Stat. 1537–546 et seq.), as enacted by section 1000(a)(9) of Public Law 106–113, is amended in section 4203, by striking "111(a)" and inserting "1113(a)".

#### SEC. 10. COPYRIGHT RELATED CORRECTIONS TO 1999 OMNIBUS REFORM ACT.

Title I of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113, is amended as follows:

(1) Section 1007 is amended—

(A) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (2)(A)"; and

(B) in paragraph (3), by striking "1005(e)" and inserting "1005(d)".

(2) Section 1006(b) is amended by striking "119(b)(1)(B)(ii)" and inserting "119(b)(1)(B)(ii)".

(3)(A) Section 1006(a) is amended—

(i) in paragraph (1), by adding "and" after the semicolon;

(ii) by striking paragraph (2); and

(iii) by redesignating paragraph (3) as paragraph (2).

(B) Section 1011(b)(2)(A) is amended to read as follows:

"(A) in paragraph (1), by striking 'primary transmission made by a superstation and embodying a performance or display of a work' and inserting 'performance or display of a work embodied in a primary transmission made by a superstation or by the Public Broadcasting Service satellite feed';".

#### SEC. 11. AMENDMENTS TO TITLE 17, UNITED STATES CODE.

Title 17, United States Code, is amended as follows:

(1) Section 119(a)(6) is amended by striking "of performance" and inserting "of a performance".

(2)(A) The section heading for section 122 is amended by striking "**rights; secondary**" and inserting "**rights: Secondary**".

(B) The item relating to section 122 in the table of contents for chapter 1 is amended to read as follows:

"122. Limitations on exclusive rights: Secondary transmissions by satellite carriers within local markets.".

(3)(A) The section heading for section 121 is amended by striking "**reproduction**" and inserting "**Reproduction**".

(B) The item relating to section 121 in the table of contents for chapter 1 is amended by striking "reproduction" and inserting "Reproduction".

(4)(A) Section 106 is amended by striking "107 through 121" and inserting "107 through 122".

(B) Section 501(a) is amended by striking "106 through 121" and inserting "106 through 122".

(C) Section 511(a) is amended by striking "106 through 121" and inserting "106 through 122".

(5) Section 101 is amended—

(A) by moving the definition of "computer program" so that it appears after the definition of "compilation"; and

(B) by moving the definition of "registration" so that it appears after the definition of "publicly".

(6) Section 110(4)(B) is amended in the matter preceding clause (i) by striking "conditions;" and inserting "conditions:".

(7) Section 118(b)(1) is amended in the second sentence by striking "to it".

(8) Section 119(b)(1)(A) is amended—

(A) by striking "transmitted" and inserting "retransmitted"; and

(B) by striking "transmissions" and inserting "retransmissions".

(9) Section 203(a)(2) is amended—

(A) in subparagraph (A)—

(i) by striking "(A) the" and inserting "(A) The"; and

(ii) by striking the semicolon at the end and inserting a period;

(B) in subparagraph (B)—

(i) by striking "(B) the" and inserting "(B) The"; and

(ii) by striking the semicolon at the end and inserting a period; and

(C) in subparagraph (C), by striking "(C) the" and inserting "(C) The".

(10) Section 304(c)(2) is amended—

(A) in subparagraph (A)—

(i) by striking "(A) the" and inserting "(A) The"; and

(ii) by striking the semicolon at the end and inserting a period;

(B) in subparagraph (B)—

(i) by striking "(B) the" and inserting "(B) The"; and

(ii) by striking the semicolon at the end and inserting a period; and

(C) in subparagraph (C), by striking "(C) the" and inserting "(C) The".

(11) The item relating to section 903 in the table of contents for chapter 9 is amended by striking "licensure" and inserting "licensing".

#### SEC. 12. OTHER COPYRIGHT RELATED TECHNICAL AMENDMENTS.

(a) AMENDMENT TO TITLE 18.—Section 2319(e)(2) of title 18, United States Code, is amended by striking "107 through 120" and inserting "107 through 122".

(b) STANDARD REFERENCE DATA.—(1) Section 105(f) of Public Law 94–553 is amended by striking "section 290(e) of title 15" and inserting

"section 6 of the Standard Reference Data Act (15 U.S.C. 290e)".

(2) Section 6(a) of the Standard Reference Data Act (15 U.S.C. 290e) is amended by striking "Notwithstanding" and all that follows through "United States Code," and inserting "Notwithstanding the limitations under section 105 of title 17, United States Code,".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate bill 320 consists of noncontroversial, technical amendments to the patent, trademark, and copyright laws. This bill corrects clerical and other technical drafting errors, and makes important clarifications in the American Inventors Protection Act which was enacted into law during the 106th Congress.

It also makes technical changes to title I of the Intellectual Property and Communications Omnibus Reform Act of 1999, title 17, and other copyright and related technical amendments.

On February 14, 2001, S. 320 passed the other body by a recorded vote of 98 to 0. However, upon further review, drafting errors were discovered in the bill. The Committee on the Judiciary adopted an amendment in the nature of a substitute which corrected the drafting errors. The amendment and S. 320, as amended, were unanimously agreed to by voice vote in the committee.

These are important and necessary amendments to our intellectual property laws, and I urge Members to support S. 320.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the amendment, and so do all of the Members on our side. This is noncontroversial. We support the chairman's description.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Speaker, I thank the gentleman for yielding time to me. I will be very brief.

Mr. Speaker, as the gentleman from Wisconsin stated, S. 320 consists of noncontroversial technical amendments to the patent, trademark, and copyright laws. They are important improvements.

I want to thank my friend, the distinguished gentleman from California (Mr. BERMAN), the ranking member on the subcommittee, for his work, as well, on this bill, both in the 106th Congress and the 107th Congress. I also

want to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for expeditiously moving this legislation along, because it is important. I urge my colleagues to support S. 320.

Mr. BERMAN. Mr. Speaker, I rise in support of S. 320.

This bill, as amended by the Judiciary Committee last week, is comprised of language from two bills, H.R. 4870 and H.R. 5106, that the House passed by voice vote on suspension last year. As were those bills last year, the current version of S. 320 is wholly noncontroversial and technical. It makes technical changes to patent, trademark, and copyright law and streamlines the operations of the PTO and Copyright Office.

As amended, S. 320 will do such things as change the title of the head of the PTO from "Director" to "Commissioner." It will also harmonize capitalizations, alphabetize definition sections, and correct punctuation.

I urge my colleagues to vote in favor of this bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 320, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### MAKING TECHNICAL AMENDMENTS TO SECTION 10 OF TITLE 9, UNITED STATES CODE

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 861) to make technical amendments to section 10 of title 9, United States Code.

The Clerk read as follows:

H.R. 861

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. VACATION OF AWARDS.

Section 10 of title 9, United States Code, is amended—

- (1) by indenting the margin of paragraphs (1) through (4) of subsection (a) 2 ems;
- (2) by striking "Where" in such paragraphs and inserting "where";
- (3) by striking the period at the end of paragraphs (1), (2), and (3) of subsection (a) and inserting a semicolon and by adding "or" at the end of paragraph (3);
- (4) by redesignating subsection (b) as subsection (c); and
- (5) in paragraph (5), by striking "Where an award" and inserting "If an award", by inserting a comma after "expired", and by redesignating the paragraph as subsection (b).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 861, and in so doing, feel inclined to paraphrase Daniel Webster, who, in defending Dartmouth College, noted that "It may be small, but there are those who love it."

Nothing could be more true with this bill, as H.R. 861 makes a truly technical correction of the most noncontroversial nature. It simply corrects section 10 of title 9 of the United States Code, which is a typographical flaw that has long evaded detection.

This section enumerates several grounds for vacating an arbitrator's award, with each ground beginning with the word "where." The fifth clause of section 10, however, is obviously not a ground for vacating an award, but rather, the beginning of a new sentence. This bill corrects this error.

However small this change may be, through the years this bill, which has come to be known as "the comma bill," has engendered great affection.

□ 1130

Some may try to diminish the importance of this bill, but one should never underestimate the importance of a comma.

To paraphrase the late Everett Dirksen, a comma here, a comma there, and pretty soon you have got a full sentence.

Let us be honest with ourselves, when used properly, a comma can be devastatingly effective. For those, especially school children, who think that grammar and punctuation do not matter and tune themselves out during English class, today's action shows clearly that it does.

Thankfully, not every grammar mistake, not every misplaced comma takes an act of Congress to correct, but this particular section of the United States Code does.

This bill has been passed by each of the past two Congresses, only to be held hostage by unrelated issues in the other body.

To my colleagues here and on the other side of the Capitol who have previously loaded up this bill with unrelated legislation, I say free the comma, and I urge my colleagues to pass H.R. 861.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in total unanimous support for the comma bill.

I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time as well.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from